

MULTIMEDIA



UNIVERSITY

STUDENT ID NO

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# MULTIMEDIA UNIVERSITY

## FINAL EXAMINATION

SEMESTER 1 , 2019/2020

**ULB 2612 –LABOUR LAW**

(All Sections / Groups)

12 OCTOBER 2019

Reading Time : 9.00 a.m. – 9.15 a.m.

(15 Minutes)

Answering Time: 9.15 a.m. – 12.15 p.m.

(3 Hours)

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### INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes **ONLY** in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.
2. This Question paper consists of 3 Pages and 5 Questions only.
3. Section A is Compulsory and carries 75 marks. In Section B attempt either Question 4(a) or 4(b). The distribution of the marks for each question is given.
4. Students are allowed to bring into exam hall a **CLEAN** and **ORIGINAL** copy of:
  - i. Employment Act 1955
  - ii. Industrial Relations Act 1967
  - iii. Trade Union Act 1959"Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.
5. Please write all your answers in the Answer Booklet provided.

**PART A: ANSWER ALL QUESTIONS****QUESTION 1**

"A contract of service exists if the following three conditions are fulfilled.

- (I) The servant agrees that, in consideration of a wage or other remuneration, will provide his own work and skill in the performance of some service for master.
- (ii) He agrees, expressly or impliedly, that in the performance of that service he will be subject to the other's control in a sufficient degree to make that other master.
- (iii) The other provisions of the contract are consistent with its being a contract of service."

-MacKenna J, in Ready Mixed Concrete (South East) Ltd v. MPNI [1968] 2 QB 497

Based on the above statement, critically discuss the different tests and approaches being adopted by the courts in determining whether a contract is a contract of service or a contract for service.

Support your answer with decided cases.

(Total:25 Marks)

**QUESTION 2**

The objective of Malaysia's Employees Provident Fund (EPF) is to provide a measure of security for retirement to its members, and there are also supplementary benefits.

Employees Provident Fund (EPF) also allows employees to make a partial or full withdrawal from their savings to meet the specific needs that are in line with the EPF's current policies."

Discuss critically what is partial withdrawal scheme and its benefits.

(Total: 25 Marks)

**Continued.....**

**QUESTION 3**

Susan is employed as a main fruit collector by an established vegetable farm in Kota Kinabalu. She started working with collecting avocados in the first year and collects at least 300 fruits in a day. However, in the last three months, Susan managed to collect about 200 fruits only. She became disoriented on her work as she was developing back pain due to working on high terrains.

As her performance is declining day by day, Susan's employer assigned her to a lower ranking position as an assistant with a reduced salary. Further, she has to share her workstation with another junior employee who has just recently joined.

During alternate weekends, she was instructed to work to compensate for the lesser fruits she has been collecting.

Susan is unhappy and now consults you if she could make a claim against the farm management for constructive dismissal.

Advise Susan on her rights.

(Total: 25 Marks)

**PART B**

**ANSWER either question 4(A) or 4(B) only**

**QUESTION 4(A)**

"The outcome of both successful collective bargaining and awarded collective agreement warrant a harmonious relationship between the employers and the employees. Both collective bargaining and collective agreement require high cooperation and understanding of each party's interest where, collective bargaining is an oral process to reach a collective agreement, which is a written document binding the employers and trade union. Nevertheless, before a collective bargaining can be initiated and a collective agreement is reached, a trade union must first gain recognition from an employer or an employer union. This is because recognition is a prerequisite to reaching collective agreement."

Based on the above statement, discuss the four major requirements for a trade union to be recognized in Malaysia and the benefits of a Trade Union.

(Total: 25 marks)

**Continued.....**

**QUESTION 4(B)**

Answer both (i) and (ii)

- (i) Discuss the different types of benefits that are provided under the Employees' Social Security Act (SOCSSO) 1969. Limit your answer with the SOCSSO Act only.

(15 marks)

- (ii) Critically discuss the meaning of 'employment injury' and provide relevant case laws to illustrate your answer.

(10 marks)

(Total: 25 Marks)

**End of Page**